

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Developing a Unified Inter-carrier)	Docket No. CC 01-92
Compensation Regime)	
)	
Missoula Inter-carrier)	DA 07-738
Compensation Reform Plan)	
)	
Proposed Amendments to Missoula Plan)	

**THE COMMENT OF
FIVE STATE MEMBERS OF THE MID-ATLANTIC CONFERENCE OF
REGULATORY
UTILITY COMMISSIONERS AND THEIR STATE COMMISSIONERS**

This Comment is filed on behalf of five state members of the Mid-Atlantic Conference of Regulatory Utility Commissioners (“Five MACRUC States”).¹ The Comment of the Five MACRUC States (“Comment”) responds to the Federal Communications Commission’s (“FCC”) Public Notice at DA 07-738 issued February 16, 2007 the (“Missoula Plan Amendments Notice”). The Missoula Plan Amendments Notice established a Comment deadline of March 19, 2007² and a Reply Comment deadline of April 3, 2007.

¹ The Delaware Public Service Commission, the Public Service Commission of the District of Columbia, the New Jersey Board of Public Utilities, the Pennsylvania Public Utility Commission and the Virginia State Corporation Commission are Signatories to these Comments.

² By notice released on March 16, 2007, the initial comment date was extended to March 28, 2007.

The Five MACRUC States' Comment

Preliminary Observations.

The State Commissions and individual Commissioners supporting the Five MACRUC States' Comment appreciate the opportunity to respond to the Missoula Plan Notice.

As an initial matter, the Five MACRUC States' Comment should not be construed as binding on any State Commission or individual state commissioner in any proceeding before the respective State Commissions nor any individual Commissioner. Moreover, the considerations set forth in the Five MACRUC States' Comment could change in response to subsequent events.

Substantive Comment.

The proposed Plan amendment, set forth in a January 30, 2007 ex parte submission by the Plan's proponents, creates a "Federal Benchmark Mechanism" (Mechanism) to implement the Plan's originally proposed "Early Adopter" Fund (Amendment at 1.) The Mechanism consists of four categories. Category A creates a "high benchmark" of \$25 for retail rates. Should "residential revenues per line" (RRL)³ exceed the high benchmark, the Plan SLC is reduced or eliminated, and the Mechanism replaces foregone SLC revenue. Category B, which targets states with the very highest rates, reduces existing consumer contributions to any existing intrastate USF and/or the interstate SLC if the RRL already exceeds \$25 before the addition

³ "Residential revenues per line" equals the total of: the residential flat rate + existing interstate and intrastate subscriber line charges (SLCs) + existing intrastate universal service fund (USF) contributions + extended area service (EAS) and/or other surcharges.

of the Plan's permitted SLC increase. Category B funding reimburses 75% of the RRL which exceeds \$25. Category C reduces consumers' intrastate USF contributions without regard to the RRL. It is designed to target Mechanism support solely toward early adopter states that have utilized an intrastate USF to reduce intrastate access charges. The fourth category is a "low rate adjustment," which further increases the Plan's SLC cap by an additional \$2 when the RRL plus the Plan's SLC increase results in an end user rate of less than \$20. In other words, the carrier's Restructure Mechanism support would be reduced, and the SLC would be further increased.

The proposed amendment does nothing to make the Missoula Plan more palatable, in fact it makes the Plan worse. This proposed amendment is an attempt to increase the current subsidy flow from the end-users in net contributor states to carriers in more rural states with incidental benefits for consumers in those states.

The FCC should reject the amendment and the entire Missoula Plan for a multitude of reasons, many of which are listed below:

1. *Lack of Consensus.* The Missoula Plan is not a consensus plan. Twenty-Five states filed initial comments, either individually or jointly, expressing concerns or opposing the Plan. The January 30th proposed amendment was filed by only five states and therefore, not representative of the views of the majority of states.

2. *Adverse Impact to Universal Service.* The Missoula Plan as filed would dramatically increase the already unsustainable Federal Universal

Service Fund (USF) and exacerbate the net contributor status of ratepayers from the majority of MACRUC states. The amendment as described in the letter as “new federal support” and “supplemental funding” would increase the cost of the Plan by an additional \$600 million with many states being ineligible to receive the majority of the funds.

3. *Additional Demand on an already-strained FUSF.* The original increase in the Federal USF under the Missoula Plan, \$2.225 billion, has now been increased by the proposed amendment, to \$2.744 billion, which would elevate the Federal USF to nearly \$10 billion. At a time when the FCC Commissioners have expressed concern on the sustainability and the level of growth of the existing \$7 billion fund, the Missoula Plan and proposed amendment cannot be justified and should be rejected.

4. *Insufficient Details.* The proposed amendment contains no details of where these additional funds will come from (i.e., no state by state impact) and there is absolutely no justification for any calculations contained therein. The proposed “High Benchmark Target” and “Low Benchmark Target” rates of \$25 and \$20 respectively have no justification and the proponents apparently just decided that they were appropriate. In addition, the calculations were developed by the proponents with little or no ability for affected states to verify the results.

5. *Inadequate Evidence on Alleged Consumer Benefit.* The calculations that estimate “net benefit” to residential customers is flawed and should be rejected. Not only are the calculations void of any back-up or justification, it only shows alleged disbursements of funds and the impact on

net contributor states is not even calculated. Unless and until the calculations presented with the proposed amendment can be tested and verified by state commissions and consumer advocates, as well as the FCC, they should be rejected.

6. *Negative Impact on Net Contributor States.* The proposal places an increased burden on most net contributor states who will continue to be forced to subsidize the rates in other states. Not only is this discriminatory and bad public policy, there is no showing in the proposal that the benchmark rates have any justification or even that the rate levels are the result of reduced intrastate access charges. No analysis is provided that shows a definitive link between the level of basic local rates and reduced intrastate access charges.

7. *Disproportionate Impact on Many States to Largely Benefit a Few States.* The Missoula Plan's attempt to shift carrier-to-carrier payments to end-users through substantial SLC and USF payments, is inappropriate. This proposed amendment not only exacerbates that inappropriate shift, it is endorsed by a small number of states who stand to benefit at the expense of consumers in net contributor states.

CONCLUSION

The January 30, 2007 proposed amendment does nothing to address the myriad of problems with the Missoula Plan as filed. The Missoula Plan and the proposed amendment shift the cost of intercarrier compensation to end-users, specifically consumers in net contributor states. The plan not only

continues the inappropriate subsidy plan from urban to rural states, it increases the subsidy by some 35% at a time when it should be capped and reduced.

At a time when the FCC Commissioner's have indicated that the current USF growth is unsustainable and time is of the essence to reform this worth while public policy goal, the Missoula Plan as filed and amended on January 30, 2007, could cause the USF to collapse. The FCC must therefore reject the Missoula Plan and the January 30, 2007 proposed amendment in its entirety.

On behalf of the Delaware Public Service Commission

/s/ Arnetta McRae
Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

/s/ Jeffrey J. Clark
Commissioner

For the Public Service Commission of the District of
Columbia

/s/ Agnes Alexander Yates
Chair

/s/ Richard E. Morgan
Commissioner

/s/ Betty Ann Kane
Commissioner

On Behalf of the New Jersey Board of Public Utilities:

/s/
JEANNE M. FOX
PRESIDENT

/s/
FREDERICK F. BUTLER
COMMISSIONER

/s/
CONNIE O. HUGHES
COMMISSIONER

/s/
JOSEPH L. FIORDALISO
COMMISSIONER

/s/
CHRISTINE V. BATOR
COMMISSIONER

Docket Nos.
CC 01-92
DA 06-1510

Wendell F. Holland, Chairman
Commonwealth of Pennsylvania Public Utility Commission

/s/

On behalf of the Commonwealth of Pennsylvania Public Utility Commission

Joseph K. Witmer, Esq.
Assistant Counsel

/s/

Dated: March 19, 2007

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

ON BEHALF OF THE VIRGINIA STATE CORPORATION COMMISSION

/s/ Theodore V. Morrison, Jr.
Chair

/s/ Mark C. Christie
Commissioner

/s/ Judith Williams Jagdmann
Commissioner